

ETHIOPIA

Human rights trials and delayed justice - the case of Olympic gold medallist Mammo Wolde and hundred of other uncharged detainees

Mammo Wolde, one of Ethiopia's four past Olympic gold medal winners, has been detained for the past four years without charge or trial in an Ethiopian prison.

He was detained in 1992 and accused of having been involved in a political killing by the former government 14 years earlier. He has strenuously denied the accusation but, like some 1,700 other former officials detained on similar grounds, he has not yet been formally charged. They have not been brought before a court or given any chance to defend themselves or to challenge their virtually indefinite detention.

Now aged 64, Mammo Wolde won a gold medal in the marathon in the 1968 Mexico Olympic Games, and silver and bronze medals in the 1968 and 1972 Olympics. He is married with a son from his first wife who died some years ago, and two young children from his second wife. His health is poor, and has deteriorated during his imprisonment.

1. Amnesty International's concerns

Mammo Wolde's case illustrates the situation of a large number of former government officials in Ethiopia who have been detained without charge or trial for up to five years. Some were senior national government officials, others -- like Mammo Wolde -- were junior local officials. Most, like him, are detained in the *Alem Bekagne* ("End of the World") section of Addis Ababa's Central Prison.

Mammo Wolde has become the focus of international attention at the time of the 1996 Olympic Games because of his Olympic athletic achievements a generation ago, but Amnesty International regards the detention without charge of *all* these prisoners as having become unreasonably prolonged. Many of these detainees may well have been responsible for serious human rights violations or may have personally committed serious crimes. Amnesty International does not consider them to be prisoners of conscience -- Amnesty International is simply saying that the detainees have the right to fair trial within a reasonable period. As the delay becomes more and more protracted, Amnesty International is renewing its appeal to the authorities to accelerate the process of charging and trying all the detainees.

Amnesty International's concerns in Mammo Wolde's situation, which is similar to many others, are that:

- he has been detained without charge or trial for four years altogether -- an unreasonably long and effectively indefinite period, to which there is no end in sight;
- if the SPO believes it has sufficient evidence to charge and try him, it should already have charged him. If he is innocent, as he claims, it is unfair that he has had no way to demonstrate this. Amnesty International is unable to assess his guilt or innocence, but urges the authorities to

formally charge him without further delay, if there is sufficient evidence to prosecute him, and to give him a fair and prompt trial;

- he is likely to face the death penalty and could be condemned to death if found guilty.

2. Detentions and the Dergue trial

Mammo Wolde is one of some 1,700 former officials who are accused of involvement in genocide, war crimes or crimes against humanity between 1974 and 1991 under the government of Lieutenant-Colonel Mengistu Haile-Mariam. The new government headed by the Ethiopian People's Revolutionary Democratic Front (EPRDF), whose forces defeated President Mengistu's army in 1991, started putting the most senior members of the former government on trial for genocide, war crimes and crimes against humanity.

Forty-six members of the 1974 military government (known as the Dergue) are currently on trial in Addis Ababa's Central High Court, and another 24 are being tried *in absentia*. They include former President Mengistu, who lives in exile in Zimbabwe despite Ethiopia's requests for his extradition. This is the first of many trials to come. The Special Prosecutor's Office (SPO) plans to try detainees in three categories: first, "the policy and decision makers", then "the field commanders, both military and civilian", and finally "the actual perpetrators" of murder, torture and other crimes.

Mammo Wolde's case falls into the last category -- he was an official of a local urban-dwellers' association (*kebele*). Only those in the first category have so far been charged and brought to trial. Most of the detainees were arrested in 1991 when the government was overthrown, but some were not apprehended until later when the authorities were encouraging victims and their families to denounce alleged human rights violators. Further arrests still take place.

Hundreds of these detainees were released by courts in 1993 as a result of *habeas corpus* applications or decisions by the SPO, when the legal limit on SPO detentions was reached. However, the SPO opposed wider provisional release of detainees. In late 1993 the cassation (appeal) division of the Supreme Court ruled that because of the special circumstances and the seriousness of the crimes involved, the SPO detainees should remain imprisoned without a specific time limit -- but not indefinitely -- until they were charged. This ended any further provisional releases and barred further *habeas corpus* applications.

The trial of the Dergue military council opened in December 1994 and, after frequently adjourned pre-trial proceedings, is currently only at the stage of hearing witnesses for the first charges in the prosecution case. The SPO says that the whole series of trials could take a further three years but many observers estimate it could take much longer, particularly if the SPO does not start the second or third category of trials until the first trial is completed. Appeals against convictions would also extend the process. Previous undertakings by the SPO to bring further charges within a particular period of time have not been carried out. By the time the trials and appeals of all the detainees are over, which might not be until the year 2000 or even later, they would have served a large proportion of any prison sentence. Any who are eventually acquitted will have spent up to a decade in wrongful imprisonment.

3. Fair trial, the death penalty and setting human rights standards

Amnesty International supports bringing to justice those who have been responsible for or who have personally committed gross human rights violations, such as extrajudicial executions and torture. The Ethiopian authorities insist they are committed to abiding by both national and international standards of fair trial.

The first trial is being held in an open and normal court, with the right to defence and appeal. Independent trial observers are permitted and journalists and members of the public can attend.

There was a considerable delay in starting the first trial. The SPO has blamed the much greater delay in bringing the rest of the charges on lack of adequate resources to prepare charges and undertake trials. In the earlier stages it received assistance from international experts, funded by various foreign governments or other sources, in particular to help decide what charges to apply and how to deal with the documentary evidence. The delays, however, have led to the government being accused of infractions of international standards of justice. The UN Working Group on arbitrary detention has declared every year since 1992 that the detention of those who have not been charged is "arbitrary, being in contravention of articles 9 and 10 of the Universal Declaration of Human Rights, articles 9 and 14 of the International Covenant on Civil and Political Rights [which Ethiopia ratified in 1993] and Principles 2, 4, 9, 10, 32, 37 and 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment". The government has never given a satisfactory response. It is clear that the detainees' fair trial rights at the pre-trial stage are not being observed and that this is already having a negative effect on the whole process.

Amnesty International is concerned at the use of the death penalty and the likelihood of executions arising from the trials. The death penalty will apply to most of the charges and the government has expressed its determination to retain the death penalty. It has said it favours execution for "a limited number" of former senior officials who are convicted of the most serious offences such as genocide and multiple crimes against humanity. The Head of State has the power to confirm or commute death sentences, although a clause in the 1995 Constitution bars pardon or amnesty in cases of crimes against humanity.

Amnesty International opposes the death penalty as a violation of the right to life and an extreme form of cruel, inhuman and degrading punishment. The Ethiopian government has rejected Amnesty International's appeals to specifically exclude it in these trials, in the way that the death penalty has been excluded from the International Criminal Tribunals in the genocide trials for the former Yugoslavia and Rwanda. Amnesty International said in 1995, in relation to the trials in Ethiopia: "*However horrific the crimes committed, this cannot be a justification for the state to take further life. Execution of former officials -- even of those responsible for mass killings -- would not be a good precedent for preserving the right to life in the future*". The government says that in retaining the use of the death penalty it is bowing to the demands for justice from victims and their relatives. Yet violent retribution and the taking of life by the state have a brutalizing effect on the society and in the political context could lead to a cycle of political violence. By renouncing the use of the death penalty to punish even atrocious crimes against humanity, the Ethiopian government

would be seen to be setting an example of support for human rights values and respect for human life, and to be firmly opposing the past government's consistent use and propagation of inhumanity and violence.

The government has consistently said that the purpose of the trials is not only to render justice for the victims but also to expose the magnitude of the human rights violations for the historical record and "to educate the people to make them aware of these offences in order to prevent the recurrence of such a system of crimes". Amnesty International is concerned that the standard-setting purpose of the trials is being weakened by the prolonged failure to charge all the detainees and bring them to trial within a reasonable period, and by the retention of the death penalty.

The process also risks being undermined by the authorities' failure to punish many human rights violations committed since the new government came to power in 1991. These include torture, extrajudicial executions, "disappearances", unfair political trials and arbitrary detentions, as documented by Amnesty International in a report published in April 1995, *Ethiopia - Accountability past and present: human rights in transition* (AI Index: AFR 25/6/95). These violations are still going on. There has been a substantial gap between the government's publicly stated commitment to human rights and the actual practice. The government has attempted to dismiss Amnesty International's recent inquiries, appeals and publications about human rights violations as exaggerated and politically biased, instead of dealing with the cases presented to it.

4. Mammo Wolde

Mammo Wolde was born on 12 June 1932 in southern Ethiopia. He is a member of the Oromo nationality or ethnic group, and a practising member of the Ethiopian Orthodox Church. He excelled in athletics and found a career in the army, attaining the rank of captain in the Palace Guards under Emperor Haile Selassie's government. When the government was overthrown in 1974, he was dismissed from the army. He worked as an athletics coach up to the time of his arrest in 1992, when his small army pension was stopped.

He was arrested a year after the overthrow of the Mengistu government. Except for two short periods of temporary release, he has been detained since then. He was arrested following an allegation of involvement in one or more summary executions in 1978 of political prisoners accused of being "counter-revolutionaries" during the government's "Red Terror" campaign. Amnesty International does not have full details of the incidents, the allegations or his response. Mammo Wolde's protestations of innocence, his version of what happened, and his counter-accusation against his accuser, were apparently given little weight by those detaining him. Even if he is charged soon, his eventual trial -- possibly one to three years away -- may be his only opportunity to defend himself.

Mammo Wolde's international athletics career spanned four Olympic Games. He competed in the 1956 Games in Melbourne, running in the 5,000 metres, 10,000 metres and 400 metre relay heats. In the 1964 Tokyo Games, he came fourth in the 10,000 metres. In the 1968 Mexico Games he won a gold medal in the marathon and a silver medal in the 10,000 metres. In Munich in 1972,

when he was one of the oldest competitors, he won a bronze medal in the marathon. He was Ethiopia's second gold medallist ever and became a national hero.

An Amnesty International representative saw Mammo Wolde in prison in Addis Ababa in 1993. He was sharing a cell with several other detainees but the cell was clean and some personal possessions were permitted, including radios. Detainees had been allowed to bring in their own beds, and they could receive food from home to supplement the prison food, and clothing and other items from relatives. They had not been physically ill-treated, in sharp contrast to the appalling torture and ill-treatment meted out to most political detainees under the former government. Mammo Wolde, however, was in a poor physical and mental state in prison. He was suffering from bronchitis and depression and his medical treatment appeared to be inadequate.

He is allowed regular family visits and an American athletics journalist who had run with him in Mexico City in 1968 was allowed to visit him in late 1995. He found him in worse health, suffering still from bronchitis but also from liver trouble, stomach complaints, and loss of hearing in one ear. A visitor in mid-1996 reported that in addition to these continuing complaints his eyesight was also failing, although he has continued to receive medical treatment and has been hospitalised four times.

5. Amnesty International's appeals for the uncharged detainees

Amnesty International appeals for action to resolve the unacceptably prolonged detention without charge or trial of these detainees. Its recommendations are addressed to the Government of Ethiopia and particularly the Chief Special Prosecutor, to other governments (especially the United States of America), as well as to organizations and individuals concerned about human rights in Ethiopia.

5.1 Mammo Wolde

Amnesty International requests that:

- the SPO thoroughly review the grounds for detaining him, allow him to make representations to the investigating officials with advice from a legal representative, and take statements from witnesses as relevant;
- if the SPO considers it has sufficient evidence for prosecution, it should bring him before a court without further delay and charge him with a specific criminal offence or offences.

5.2 All the other uncharged detainees

Amnesty International requests that the SPO carry out the same review in all the other cases and that the authorities quickly bring to an end this much-criticized situation of prolonged and virtually indefinite detention. Amnesty International makes the following recommendations:

- the authorities should restore the right of detainees to apply for *habeas corpus*, as provided for in the 1995 Constitution (Article 19(4)). The *habeas corpus* process should include the following elements:

- (1) the SPO should be required to justify the grounds for the detention before a judge;
 - (2) the detainee should be allowed in person or through his or her legal representative to challenge the grounds for the detention;
 - (3) the judge should review the evidence in order to establish whether there is sufficient basis to hold the detainee in custody prior to being charged;
 - (4) the judge should then require charges to be preferred without further delay if there is sufficient evidence to justify prosecution;
- those responsible for the administration of justice should appoint sufficient judges, prosecutors and investigators to ensure that:
 - (1) all detainees can be brought to court within a reasonable time and charged if there is sufficient evidence of criminal offences;
 - (2) they are tried within a reasonable period;
 - if the SPO needs additional resources, the international community should assist, for example by providing foreign lawyers to act as judges, prosecutors or investigators alongside Ethiopian officials, and by providing funds for hiring and training more Ethiopian judges, prosecutors, investigators, other technical staff, and public defenders.